

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-77-E - ORDER NO. 2011-435

JUNE 21, 2011

IN RE: David and Cheryl Baker, Complainant/Petitioner v. Duke Energy Carolinas, LLC, Defendant/Respondent)))	ORDER DENYING AND DISMISSING COMPLAINT/PETITION
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This matter comes before the Public Service Commission of South Carolina ("Commission") on a Complaint filed by David and Cheryl Baker ("the Bakers") against Duke Energy Carolinas, LLC ("Duke Energy" or "the Company"). The Commission's Scheduling Order set a hearing on the matter for April 7, 2011 at 10:00 AM, and appointed F. David Butler, Esquire as the Hearing Examiner in the matter. The hearing commenced as scheduled before Hearing Examiner Butler. Appearing at the hearing was the Complainant/Petitioner Cheryl Baker, who appeared *pro se*. Bonnie D. Shealy, Esquire appeared for the Defendant/Respondent, Duke Energy Carolinas, LLC. Ms. Shealy presented Barbara G. Yarbrough as a witness. Nanette S. Edwards, Esquire appeared for the Office of Regulatory Staff (ORS). Ms. Edwards presented April B. Sharpe as a witness.

An examination of the Complaint reveals that the Bakers have been continuous customers of Duke Energy for nearly ten years. Tr. at 10. Although it appears that David Baker applied for and received service from the Company, Cheryl Baker, his mother,

appears to be the actual recipient of the service and the actual resident of the served premises. Tr. at 30. Ms. Baker appeared before the Hearing Examiner without objection.

The Baker's Complaint Form (and testimony) complains in particular about the amount of three bills for electric service from the Company: a November 2010 bill for nearly \$270, a December 2010 bill for \$385, and a January 2011 bill for \$525. Tr. at 16. The Bakers state that there was no additional electrical usage to warrant these bills, and that the thermostat in the residence (a mobile home) stays set between 68-70 degrees. The Complainants go on to detail the usage of electricity in the house, and, in summation, assert that "there is only normal usage as has been in the past but the bills have suddenly skyrocketed." Id. The relief requested is three-fold: an "honest investigation into the sudden skyrocketing of electrical bills, a decrease in rate of kilowatt hour usage charge, and a refund/credit on bill for excessive billing." Id. Notably, neither the complaints, nor the subsequent submitted complainant's materials, nor Ms. Baker's testimony received by this Hearing Examiner, assert the amount of the requested rate decrease, or what the proper rate for the service should actually be, or how much of a refund/credit on the bill should actually be ordered. The gravamen of the Complaint is that the complainants believe that the charges for electric service for three months were excessive, that the rate for the electric service should be decreased, and a refund/credit of some undetermined amount should be issued based on what the complainants describe as "excessive billing."

In response, the Defendant/Respondent Duke Energy Carolinas, LLC presented the testimony of Barbara G. Yarbrough, Rates Director for Duke Energy. Ms. Yarbrough reported that the electric meter on the Baker premises was tested, and was found to be

operating within the guidelines established by this Commission. Tr. at 34. Ms. Yarbrough further testified that the Baker residence was a manufactured home, apparently constructed in 1984, and that Ms. Baker indicated that the home is equipped with an electric furnace, electric water heater, and other electric appliances. Tr. at 30. Ms. Yarbrough also stated that she informed Ms. Baker that, although repairs had been made to the heating system last year, the electric furnace was almost twenty years old, and would not have the efficiency of a newer, more efficient system or a heat pump. Id. Ms. Yarbrough also suggested that Ms. Baker continue to check for such things as the calibration of her thermostat and leaking or broken ductwork. However, Ms. Baker still questioned why her electric bills had increased by about \$100 a month, since no changes had occurred in the home. Id.

Ms. Yarbrough investigated the matter, and reviewed the last several months' usage history in combination with weather data. She concluded that the changes in the usage closely matched the degree of change in weather. Tr. at 32. The electric bill went down in February 2011, and then went down again by a significant amount in March 2011. Ms. Baker reported that she had turned off the heat. Tr. at 33. Ms. Yarbrough concluded that this statement, along with the review of the usage history indicates that the heating system was the primary contributor to the increased usage during the coldest winter months. Tr. at 47. The witness testified that she reviewed the history of the Baker account since early 2008. She noted that the usage pattern has consistently shown seasonal changes in usage that reflect changes in weather. According to the witness, the last 24 months show higher usage than the prior year, but that the last two winters have

been colder than the winter of 2008-2009. Tr. at 32. Ms. Yarbrough presented exhibits illustrating her conclusions.

With regard to the rate being charged, Ms. Yarbrough testified that Ms. Baker is served on Schedule RS, which Duke believes is the correct rate, based on the age and type of structure. Tr. at 31. Ms. Yarbrough explained that the Company's rates were cost-based and approved by this Commission. Id. Ms. Yarbrough also discussed the Time of Use Rate with Ms. Baker, and that rate's availability and usefulness to her under her particular circumstances. Id.

The Office of Regulatory Staff (ORS) participated in the proceeding, and presented the testimony of April B. Sharpe, the agency's Manager of Consumer Services. Ms. Sharpe testified, *inter alia*, that, with regard to the January 2011 Duke bill for electric service to the Baker premises, and after considering Ms. Baker's usage data, ORS concluded that the electric usage was accurately registered by the Company's meter and billed according to the Commission approved rate schedule (RS) for residential service. Tr. at 73. Ms. Sharpe concluded that, pursuant to ORS's review of the information provided on the Baker account, a credit or refund is not warranted. Id. Ms. Sharpe did note that ORS informed Ms. Baker that there is an Equalized Payment Plan available from Duke Energy for customers whose account shows a good payment history. Tr. at 74.

DISCUSSION, FINDINGS, AND RULING

While it is unfortunate that Ms. Baker received the high bills for electric service during the three months complained of, no evidence has been presented that would show that Duke Energy has done anything improper or in any way caused or contributed to the

high bills in question. A meter test showed that the meter attached to the Baker residence was operating within Commission-approved limits. Further, the applicable rate for the residence was clearly Duke's RS rate, commonly used for Duke's residential customer service, and a proper Commission-approved rate under the circumstances. Ms. Baker presented no evidence as to what rate she considered appropriate, how much she should actually receive in a bill refund/credit, or how much her rate should be decreased. Her only point was that her bill had increased drastically, but she provided no alternative evidence to dispute Duke's position that it was due to her usage.

The investigation into the matter showed, however, that changes in the usage of electricity at the Baker residence matched the degree of change in the weather. The electric bills increased accordingly. Notably, when the heating system was turned off, the electric bills for the residence decreased.

We are sympathetic with the Complainants in this matter, considering the increased bills in these hard economic times. However, we find no violation of any Commission rules or regulations in this instance by Duke Energy. We find that the increases in the bills are explained by the weather at the time. We further find that the meter on the residence was operating within normal limits according to Commission regulations, and that the Complainants were being charged the proper Commission-approved rate. Under these circumstances, we cannot order a bill/refund credit or a rate decrease. Accordingly, the Complaint/Petition is denied and dismissed.

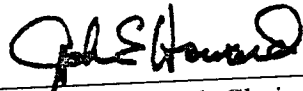
We would note that subsequent to service of the Proposed Order of the Hearing Examiner on the parties required by 26 S.C. Code Ann. Regs. 103-841 (C) (Supp. 2010),

the Complainants forwarded Exceptions to the Hearing Examiner's Proposed Order to the Office of Regulatory Staff within the ten-day time period allowed for the filing of exceptions to the Proposed Order with the Commission. The Exceptions were forwarded by the ORS and received at the Commission after the original Commission vote on this matter denying and dismissing the Complaint. No filing was made with the Commission by the Bakers. However, in this particular case, we will consider the Complainant's Exceptions, since the Office of Regulatory Staff ultimately forwarded the Complainant's materials within a short time after their receipt. We will therefore rule accordingly.

Unfortunately, the Complainants' Exceptions to the Proposed Order of the Hearing Examiner provided no new information or issues that were not considered during the hearing on this Complaint. Accordingly, we reaffirm our findings and rulings herein, including the denial and dismissal of the Complaint. We do encourage the Office of Regulatory Staff and Duke Energy Carolinas to explore available programs to assist Ms. Baker in making her home more energy efficient.


This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman

(SEAL)